IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2668 of 2005

Between:

S. Nagaraju, S/o. Narayana,
M/s. Raj Bio-Tech Pharma, aged 38 years,
R/o. Plot No. 9, Sai Nagar, Kendra Nagar Bus Stop, Uppal Depot R.R. District.

..... PETITIONER

AND

1 The Station House Office, Uppal Police Station, Uppal, R.R. District.
2 Narcotics Control Bureau, South Rep by its Intelligence Officer,
Zonal Unit, /3-A Rajaji Bhavan Basant Nagar, Chennai - 600 990.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in issuing the summons U/Sec. 67 of the N.D.P.S. Act vide proceedings No. NCBF No. 48/1/5/2005/ NCB/MDS dt. 11-1-2005and asking the petitioner to appear and not to leave the said premises without prior permission as arbitrary, illegal unjust, uncalled for, and contrary to the Act and the Rules, consequently call for the records and set aside the same.

Counsel for the Petitioner: SMT.BOBBA VIJAYALAKSHMI

Counsel for the Respondents: GP FOR HOME

The Court made the following :

THE HONOURABLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.2668 OF 2005

ORDER:

The petitioner was issued summons dated 11.2.2005 by the second respondent requiring the petitioner to appear before him on 16.2.2005 in connection with investigation into a crime under the provisions of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act').

The petitioner states that he became Managing Partner of M/s.Raj Biotech Pharma only with effect from April, 2004 and the investigation relates to the activities of the firm, earlier to the said period. It is also his case that he cooperated with the investigation on earlier occasions and apprehends that he may be arrested in case he appears in response to summons.

The matter was adjourned thrice to enable the learned Additional Central Government Standing Counsel to obtain instructions. He contends that the summons were issued under Section 67 of the Act with a view to elicit information from the petitioner and it is part of investigation. He also states that the Investigating Officer is conferred with various powers under Section 42 of the Act and no exceptions can be taken to the summons in question.

The petitioner was issued summons under Section 67 of the Act. The purport of the summons is that the petitioner shall appear before the second respondent on 16.2.2005 for the purpose of giving evidence and producing the documents. The petitioner gains impression that he will be arrested in view of the last sentence in the summons which require that the petitioner shall not leave the premises without the permission. It is true that the respondent is conferred with various powers under Section 42 of the Act. The present summons is issued to the petitioner for the purpose giving evidence and producing the documents in the enquiry. No exception can be taken to the same. It is difficult to discern from the summons that the petitioner would be arrested, that too without securing any warrant from the Court. The last sentence in the summons cannot be the basis for such an apprehension.

The learned Standing Counsel for the respondents submits that the petitioner has to appear before the second respondent before the 7th March, since the investigation is already been delayed.

Taking the totality of the circumstances into account, the writ petition is disposed of directing that the petitioner shall appear before the second respondent on 5.3.2005. The petitioner shall be under obligation to furnish such information and produce such documents as are required by the respondents. The occasion, if at all any, for arresting the petitioner would arise, if only the petitioner does not stand by the under taking given by him as regards the furnishing of information and documents.

25.02.2005.

Note:

Issue c.c.in three days.

B/o.

mdaa.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Station House Office, Uppal Police Station, Uppal, R.R. District.
2 Narcotics Control Bureau, South Rep by its Intelligence Officer,
Zonal Unit, /3-A Rajaji Bhavan Basant Nagar, Chennai - 600 990.

3. Two C.Cs to G.P.for Home, High Court of A.P.,Hyderabad (OUT).

4) 2 CD copies

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